

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 7. Mediation Questionnaire

Instructions for this form: <https://www.ca9.uscourts.gov/forms/form7instructions.pdf>

9th Cir. Case Number(s) 23-55136

Case Name Softketeers, Inc. v. Regal West Corporation, et al.

Counsel submitting this form Paul M. Schoenhard

Represented party/parties Regal West Corporation, et al. (appellants)

Briefly describe the dispute that gave rise to this lawsuit.

Regal West Corporation ("Regal"), a third party logistics company, retained the services of Softketeers, Inc., a software development company, to assist it with updating certain warehouse management software that Regal had been using for many years. When the parties' relationship ended, Softketeers sued Regal alleging that it, rather than Regal, owned the rights to the software that Regal hired it to support.

Briefly describe the result below and the main issues on appeal.

The issues before the district court were tried in part to a jury and in part to the court. The jury returned a verdict in Softketeers' favor. The court, in turn, found that the jury's verdict implied certain findings that were dispositive of the primary issue tried to the court and, as a result, also ruled in Softketeers' favor. The court has now entered a mandatory injunction -- a destruction order that enters into effect on April 7. Regal has asked the court to reconsider or stay its destruction order or to extend its destruction deadline. Regal filed the instant appeal to seek emergency relief from and interlocutory review of the destruction order. The main issue on appeal is whether a destruction order is warranted in this case.

Since Regal filed the instant appeal, the district court has entered final judgment. Once the district court addresses anticipated post-judgment motions pursuant to Fed. R. Civ. P. 50(b) and 59, Regal will present to this Court any additional issues remaining for appeal. Such issues may include but are not limited to: whether Regal is an owner of the copyrights in the software at issue; whether Regal has an implied license to the software at issue; whether Softketeers was equitably estopped from asserting copyright infringement claims against Regal; whether Softketeers established liability of individual defendants; and whether the jury's damages award was supported by substantial evidence.

Describe any proceedings remaining below or any related proceedings in other tribunals.

Presently before the district court are various motions relating to relief sought from the destruction order entered as part of the court's injunctive relief. Appellants are also preparing post-judgment motions pursuant to Rules 50(b) and 59.

Signature s/Paul M. Schoenhard

Date February 21, 2023

(use "s/[typed name]" to sign electronically-filed documents)